

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CAMDEN DIVISION

**IN RE: VALSARTAN
PRODUCTS LIABILITY LITIGATION**

This Document Relates to All Actions

Case No. 19-md-2875-RBK
MDL No. 2875

Hon. Robert B. Kugler, District
Judge

Hon. Karen M. Williams,
Magistrate

Hon. Thomas Vanaskie (Ret.),
Special Master

**WHOLESALE DEFENDANTS' NOTICE OF MOTION TO ADOPT IN
PART AND OBJECTIONS IN PART TO SPECIAL MASTER'S REPORT
ON PLAINTIFFS' MOTION FOR LEAVE TO AMEND MASTER
COMPLAINTS AND SPECIAL MASTER ORDER NO. 46 PURSUANT TO
FED. R. CIV. P. 53**

PLEASE TAKE NOTICE that on December 6, 2021, or as soon as counsel may be heard, the undersigned counsel, on behalf of AmerisourceBergen Corporation, McKesson Corporation, and Cardinal Health, Inc. ("Wholesaler Defendants") named in the operative Master Personal Injury Complaint (Dkt. 122), the operative Consolidated Second Amended Economic Loss Class Action Complaint (Dkt. 398), and the operative Consolidated Amended Medical Monitoring Class Action Complaint (Dkt. 123) shall move for the entry of an Order adopting in part and rejecting in part the Special Master's Report on Plaintiffs'

Motion for Leave to Amend Master Complaints [ECF No. 1614] (the “Report”) and Special Master Order No. 46 [ECF No. 1615] (the “Order”). In this motion, the Wholesaler Defendants respectfully move this Court to adopt Paragraphs 2, 3, 5, 7, 8, and 9 of the Order, each of which is consistent with this Court’s prior rulings, and object in part to and move that the Court not adopt those portions of the Report and Order (1) granting Plaintiffs leave to amend to pursue economic loss and medical monitoring claims “under the laws of all fifty states, the District of Columbia, and Puerto Rico,” including claims “based upon the laws of the jurisdictions where a named Plaintiff neither resided nor was injured;” (2) granting Plaintiffs leave to amend to pursue economic loss and medical monitoring claims “under the laws of all fifty states, the District of Columbia, and Puerto Rico” on the additional grounds of the lack of the traceability element of standing; and (3) granting Plaintiffs leave to amend the Personal Injury Master Complaint and the Economic Loss Master Complaint to assert claims for violations of state consumer protections statutes that “may only require deceptive or unfair conduct and resultant damages” because, based on the Special Master’s other rulings, any amendment seeking to allege such conduct by Wholesaler Defendants would be futile. *See* the Report at 7-12 and 28-29; *see also* Order ¶¶ 12-13 (granting Motion to Amend to the extent not otherwise denied).

PLEASE TAKE FURTHER NOTICE that in support of their motion and objections, the Wholesaler Defendants shall rely upon the Memorandum of Law in Support submitted herewith, and any reply submissions made hereafter; and

PLEASE TAKE FURTHER NOTICE that a proposed Order is submitted herewith; and

PLEASE TAKE FURTHER NOTICE that oral argument is requested, pursuant to Fed. R. Civ. P. 53(f)(1), if this motion is opposed.

Dated: October 29, 2021

Respectfully submitted,

/s/ Jeffrey D. Geoppinger
Jeffrey D. Geoppinger
Liaison Counsel for Wholesalers

Jeffrey D. Geoppinger
ULMER & BERNE LLP
600 Vine Street, Suite 2800
Cincinnati, OH 45202-2409
Tel.: (513) 698-5038
Fax: (513) 698-5039
Email: jgeoppinger@ulmer.com

Counsel for AmerisourceBergen Corporation

Andrew D. Kaplan
Daniel T. Campbell
Marie S. Dennis
CROWELL & MORING
1001 Pennsylvania Avenue NW
Washington., D.C. 20004
Tel.: (202)624-1000
Fax: (202) 628-5116
Email: akaplan@crowell.com

Email: dcampbell@crowell.com
Email: mdennis@crowell.com

Counsel for Cardinal Health, Inc.

D'Lesli M. Davis
Ellie K. Norris
NORTON ROSE FULBRIGHT US LLP
2200 Ross Avenue, Suite 3600
Dallas, TX 75201-7932
Tel: (214) 855-8221
Fax: (214) 855-8200
Email: dlesli.davis@nortonrosefulbright.com
Email: ellie.norris@nortonrosefulbright.com

Counsel for McKesson Corporation

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of October, 2021, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to all CM/ECF participants in this matter.

/s/ Jeffrey D. Geoppinger
Jeffrey D. Geoppinger